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7 Attorneys for Plaintiff

8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA**

10 THERESA BROOKE, a married woman
11 dealing with her sole and separate claim,

12 Plaintiff,

13 vs.

14 CARSON HOTEL LLC, a Delaware
15 limited liability company,

16 Defendant.

Case No:

VERIFIED COMPLAINT

(JURY TRIAL DEMANDED)

17 Plaintiff Theresa Marie Brooke alleges:

18 **PARTIES**

19 1. Plaintiff Theresa Brooke is a married woman. Plaintiff is legally disabled,
20 and is therefore a member of a protected class under the ADA, 42 U.S.C. § 12102(2),
21 the regulations implementing the ADA set forth at 28 CFR §§ 36.101 et seq., the
22 California Unruh Civil Rights Act. Plaintiff ambulates with the aid of a wheelchair due
23 to the loss of a leg.

24 2. Defendant, Carson Hotel LLC, owns and/or operates and does business as
25 the hotel DoubleTree by Hilton Hotel Carson located at 2 Civic Plaza Drive, Carson,
26 California 90745. Defendant's hotel is a public accommodation pursuant to 42 U.S.C. §
27 12181(7)(A), which offers public lodging services. On information and belief,
28 Defendant's hotel was built or renovated after March 15, 2012.

JURISDICTION

3. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 1331 and 42 U.S.C. § 12188.

4. Plaintiff's claims asserted herein arose in this judicial district and Defendant does substantial business in this judicial district.

5. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and (c) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

6. Pursuant to *Arroyo v. Rosas*, supplemental jurisdiction is appropriate over Plaintiff's Unruh claim. On a case-specific analysis, there are no compelling reasons to decline jurisdiction.

ALLEGATIONS

7. Plaintiff alleges that Defendant's hotel does not have a compliant access aisle at the passenger loading zone adjacent to the hotel lobby in violation of Section 503 of the 2010 Standards. An access aisle has specific requirements: It must be 60 inches wide and at least 20 feet long, it must have an accessible route adjoining it, and it cannot be within a vehicular way. Section 503.3.

8. The requirement for an access aisle at a passenger loading zone is immensely important for a person in a wheelchair such as Plaintiff, as it provides safe access to the entry of the hotel and deters others from placing encumbrances or obstacles there such as a vehicle parking. An access aisle is akin to a cross-walk for pedestrians.

9. Plaintiff formerly worked in the hospitality industry and her husband works in the travel industry. She and her husband are avid travelers to California for purposes of leisure travel and to "test" whether various hotels comply with disability access laws. Testing is encouraged by the Ninth Circuit Court of Appeals.

10. Plaintiff and her husband traveled to Blythe, the Desert Cities and Los Angeles in late July for required hearings in the Central District and leisure travel. She

1 and her husband anticipate returning several times in the next few months for required
2 hearings, depositions and further testing. Plaintiff also has concrete plans to lodge at
3 Defendant's hotel in May 2023, but she will not honor her concrete plans if Defendant
4 has not provided notice of remediation by then.

5 11. During this trip, Plaintiff personally visited Defendant's hotel.
6 Defendant's hotel has a passenger loading zone because pickup and dropoff occurs
7 there and it is located directly outside of the lobby entrance. There are also design
8 features showing an intent for utilization as a passenger loading zone. For example,
9 there is a *porte cochere*, which by definition is a design feature for passenger loading
10 zones.

11 12. While at Defendant's hotel, she discovered that Defendant's hotel has a
12 barrier to entry to the lobby, which is that the passenger loading zone does not have an
13 access aisle compliant with Section 503.3. It is an absolute requirement to have an
14 access aisle at a passenger loading zone pursuant to Section 503.3. The requirement of
15 an access aisle at a passenger loading zone relates to Plaintiff's disability of not having
16 one leg and being forced to use a wheelchair because access aisles are required so
17 persons in a wheelchair can maneuver without threat of danger from other vehicles and
18 without other encumbrances blocking their pathway. The lobby, therefore, is
19 inaccessible to Plaintiff by way of the passenger loading zone because there is no access
20 aisle.

21 13. Plaintiff gained actual and personal knowledge of a barrier while visiting
22 Defendant's hotel (no access aisle at passenger loading zone), and as a result, she was
23 deterred from entering the hotel. She will only return to the hotel if Defendant puts the
24 required access aisle into place. Visiting otherwise would be futile because the lack of
25 the access aisle represents a barrier to entering the lobby.

26 14. It is readily achievable to modify the hotel to provide an access aisle.
27 Provision of an access aisle is extremely inexpensive; it involves painting and
28 measuring tools.

- a. Declaratory Judgment that at the commencement of this action Defendant was in violation of the specific requirements of Title III of the ADA described above, and the relevant implementing regulations of the ADA;
- b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR § 36.504(a) which directs Defendant to take all steps necessary to bring its passenger loading zone into full compliance with the requirements set forth in the ADA;
- c. Payment of costs and attorney's fees;
- d. Provision of whatever other relief the Court deems just, equitable and appropriate.

SECOND CAUSE OF ACTION

23. Plaintiff realleges all allegations heretofore set forth.

24. Defendant has violated the Unruh by denying Plaintiff equal access to its public accommodation on the basis of her disability as outlined above.

25. Unruh provides for declaratory and monetary relief to "aggrieved persons" who suffer from discrimination on the basis of their disability.

26. Plaintiff has been damaged by the Defendant's non-compliance with Unruh.

27. Pursuant to Cal Civ. Code §52, Plaintiff is further entitled to such other relief as the Court considers appropriate, including monetary damages in an amount of \$4,000.00, and not more.

28. Pursuant to Unruh, Plaintiff is entitled to attorney's fees and costs in an amount to be proven at trial.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- a. Declaratory Judgment that at the commencement of this action Defendant was in violation of the specific requirements of Unruh; and
- b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR § 36.504(a) which directs Defendant to take all steps necessary to bring its passenger loading zone into full compliance with the requirements set forth in the ADA;
- c. Payment of costs and attorney's fees;

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2 d. Damages in the amount of \$4,000.00; and

3 e. Provision of whatever other relief the Court deems just, equitable and
4 appropriate.

DEMAND FOR JURY TRIAL

5 Plaintiff hereby demands a jury trial on issues triable by a jury.

6
7 RESPECTFULLY SUBMITTED this 4th day of October, 2022.

8
9 /s/ P. Kristofer Strojnik

10 P. Kristofer Strojnik (242728)

11 Attorneys for Plaintiff

12 **VERIFICATION**

13 I declare under penalty of perjury that the foregoing is true and correct.

14
15 DATED this 4th day of October, 2022.

16
17 

18
19 Theresa Marie Brooke